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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,695	01/04/2002	Darrell Price	PC-1228	5672

23717 7590 11/12/2003

LAW OFFICES OF BRIAN S STEINBERGER
101 BREVARD AVENUE
COCOA, FL 32922

EXAMINER

CHAPMAN, JEANETTE E

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 11/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/039,695	Applicant(s) PRICE, DARRELL	
	Examiner Chapman E Jeanette	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/24/03.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 18-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-11 and 13-16 is/are rejected.
- 7) ☒ Claim(s) 8, 12 and 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8, 9, 11 13-15, 26-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Cornwall (6336297) in view of Harrell (3311391). Cornwall discloses a pre-seal system comprising in combination:

- a first sleeve 16 extending through one side of a boundary such as a floor, wall or ceiling constructed of concrete; see column 26-50; the boundary separates two spaces from one another;
- a second sleeve 20 extending through a second side of the boundary opposite the first side;
- a member 12 having a first portion which separates the first sleeve from the second;
- the member includes a first portion 12c and a second portion 12d which is perpendicular to the first; the second portion is exterior to the first sleeve and the second sleeve;
- the resilient member includes a third portion 12b with a raised rib 12e extending outward from the second portion/sleeve; the third portion includes a washer configuration extending outward from the second

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portion; the first second and third portions include a substantially t cross sectional shape; the member is located inside the boundary 54/56

- The first and second sleeves and the member form a through hole opening through the boundary;
- A pipe 50 smaller than element 16 or 20 or 12 is capable of passing through the trough hole in the boundary; the pipe is a plumbing pipe.

Harrell discloses:

a pre-seal system comprising in combination:

- a first sleeve 50 extending through one side of a boundary such as a floor, wall or ceiling; see column 26-35;
- a second sleeve 40 extending through a second side of the boundary opposite the first side;
- a resilient member 21 having a first portion which separates the first sleeve from the second;
- the resilient portion includes a first portion 35 and a second portion 22 which is perpendicular to the first; the second portion is exterior to the first sleeve and the second sleeve;
- the resilient member includes a third portion 61 extending outward fro the second portion; the third portion includes a washer configuration; the first second and third portions include a substantially t cross sectional shape;
- The seal system of Harrell is elastomeric in construction thus this description includes PVC materials and rubber sleeves;

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- the resilient member includes a third portion 61 extending outward from the second portion; the third portion includes a washer configuration; the first second and third portions include a substantially t cross sectional shape;

It would have been obvious to one of ordinary skill in the art to modify Cornwall to include a member that is resilient and made of the recited material as shown by Harrell in order to fulfill the intended use and function of the system while employing a low cost material

The materials of construction have been considered a matter of ordinary skill in the art; one of such skill would have appreciated constructing the same of a material deemed suitable and providing the intended function and purpose of each element of the sleeve.

Response to Arguments

Applicant's arguments with respect to claims 1-17 and 26-27 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Allowable Subject Matter

Claims 8, 12 and 17 are is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E Jeanette whose telephone number is 703-308-1310. The examiner can normally be reached on Mon.-Fri, 8:30-6:00, every other fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Friedman, Carl can be reached on 703-308-0839. The fax phone numbers for the organization where this application or proceeding is assigned are 305-7687 for regular communications and 305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


Jeanette Chapman
Primary Examiner